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September 11, 2014

Via ECF

Hon. Denise L. Cote,  
United States District Judge,  
Daniel Patrick Moynihan United States Courthouse,  
500 Pearl Street, Room 1610,  
New York, New York 10007-1312.

Re: FHFA v. Nomura Holding America Inc., et al., No. 11-cv-6201

Dear Judge Cote:

I write on behalf of the Nomura and RBS defendants (“Defendants”) regarding the deadline and page limits for defendants’ brief in opposition to Plaintiff’s Motion for Partial Summary Judgment on the Statute of Limitations, filed August 25, 2014, in the above-captioned action. Defendants respectfully seek an extension of the current deadline, September 15, by two weeks, to September 29. Defendants also seek permission to file a joint opposition brief no longer than fifty (50) pages.<sup>1</sup>

On August 19, 2014, FHFA asked the Court to reopen summary judgment briefing and permit it to move for summary judgment on the statute of limitations defense in (i) this case and (ii) the related *Goldman Sachs* and *HSBC* actions. FHFA proposed an “expedited” consolidated briefing schedule under which briefing would be complete by September 19, apparently driven by the September 29 trial date in *Goldman Sachs* and *HSBC*. (8/19/14 Ltr. from Philippe Selendy at 2, Docket No. 767.) Over defendants’ opposition, the Court granted FHFA’s request to reopen summary judgment briefing, allowing FHFA to file its motion on August 25, 2014; ordering Goldman Sachs and HSBC to file their opposition briefs on September 8; and ordering Nomura to file its opposition brief on September 15. (8/20/14 Order, Docket No. 923.) The *Goldman*

<sup>1</sup> Defendants sought FHFA’s consent to this request, but as of the time of the filing of this letter, FHFA has not responded.

Hon. Denise L. Cote

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*Sachs* case has since settled, and HSBC filed no opposition papers on September 8, nor has any entry appeared on the *HSBC* docket since September 4.

Without the need to accommodate the *Goldman Sachs* and *HSBC* trial dates, there now appears to be no reason to expedite briefing in the *Nomura* case, which is set for trial on March 9, 2015. Indeed, on September 8, 2014, the Court granted FHFA's request to file an *additional* summary judgment motion on Defendants' due diligence defense which will not be fully briefed until December. (9/8/14 Order, Docket No. 806.)

Affording Defendants only three weeks to respond to a summary judgment motion is also inconsistent with prior practice in this action. For example, the original summary judgment schedule gave parties five weeks to submit opposition papers. (6/16/14 Order, Docket No. 705.) Allowing five weeks for Defendants' response is particularly appropriate here, where FHFA had two months beyond the June 20 summary judgment deadline to prepare its papers and filed its statute of limitations motion during the period when the parties in *Nomura* were to be focused on expert discovery.

With respect to page limits, in order to respond adequately to the issues raised in FHFA's motion, Defendants respectfully seek permission to file an opposition brief of no more than 50 pages. In opposing FHFA's motion for summary judgment concerning the GSEs' knowledge, the Court permitted Defendants to file a joint brief of up to 35 pages and additional case-specific briefs of up to 15 pages each. (4/28/14 Order, Docket No. 649.) We respectfully submit that an equal number of pages is necessary to present fully the issues raised by the current motion.

Granted. Reply is due

Oct. 20, 2014.

*Denise L. Cote*  
9/11/14

Sincerely,

/s/ David B. Tulchin

David B. Tulchin